

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1: Assembly Bill (AB) 1961 (Chapter 109, Statutes of 2002), Residential Care Facilities for the Elderly (RCFE) Hospice Care, Terminally Ill Persons

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held April 9, 2014 as follows:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on April 9, 2014.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286 E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Chapters 87400 and 87600.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 1961 amended Health and Safety (H&S) Code section 1569.73 to allow for the acceptance of terminally ill persons already receiving hospice care into a RCFE. AB 1166 affected both Adult Residential Facilities (ARFs) and RCFEs respectively by amending H&S Code sections 1507.3 and 1569.74 to accept a terminally ill person already receiving hospice care into an ARF and to allow licensees in both facility types to contact the hospice agency in lieu of calling 9-1-1 during an emergency situation for hospice terminally ill client/residents under certain conditions. The regulations also incorporate prohibited health conditions into the hospice care plan and hospice waiver. Similarly, the ARF regulations incorporate restricted and prohibited health conditions into the hospice care plan and the hospice waiver.

The benefits of the regulatory action to the health and welfare of terminally ill individuals already receiving hospice care into a RCFE will provide the option for RCFE licensees to notify a terminally ill resident's hospice agency in lieu of calling 9-1-1 during a life threatening emergency related to the terminal illness for residents with an advance directive or request regarding resuscitative measures.

The CDSS considered any other possible related regulations, and we find that these are the only regulations dealing in this subject area (Hospice Terminally Ill, Residential Care Facilities for the Elderly [RCFE]), and therefore, CDSS finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 1961 and AB 1166, as well as with existing state regulations.

COST ESTIMATE

1. **Costs or Savings to State Agencies:** These regulation changes do not result in local assistance costs to the state.
2. **Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code sections 17500 – 17630:** These regulations changes do not result in local assistance costs to the counties or school districts.
3. **Nondiscretionary Costs or Savings to Local Agencies:** There are no local assistance costs associated with this change.
4. **Federal Funding to State Agencies:** These regulation changes do not result in local assistance costs to the federal government.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has no data on the number of individuals receiving hospice care in licensed facilities or the number of calls made to emergency response services. The CDSS has made an initial determination that the proposed action has no apparent additional cost impacts to individuals or facilities and will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS must determine that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action allow residential care facilities to allow terminally ill residents already receiving hospice care services to be admitted and care to be provided to those with prohibited health conditions through a hospice waiver.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

Section 1569.30 of the H&S Code grants CDSS the authority to develop the regulations and Sections 1569.73 and 1569.74 are being referenced to make the regulations more specific.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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